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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MM Docket No. 92-263

In the Matter of:

Implementation of the Cable Television Consumer Protection and Competition Act of 1992

Consumer Protection and Customer Service

**REPLY COMMENTS OF THE COMMUNITY ANTENNA TELEVISION
ASSOCIATION, INC.**

**Community Antenna Television
Association, Inc.
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**REPLY COMMENTS OF THE COMMUNITY ANTENNA TELEVISION
ASSOCIATION, INC.**

The Community Antenna Television Association, Inc., ("CATA"), is a trade association representing owners and operators of cable television systems serving approximately 80 percent of the nation's more than 60 million cable television subscribers. CATA files these "Reply Comments" on behalf of its members who will be directly affected by the Commission's action.

I. THE STANDARDS MUST BE FLEXIBLE

CATA has reviewed the comments filed in this proceeding and in light of some of the suggestions made, most notably by the National Association of Telecommunications Officers and Advisors ("NATOA"), we are compelled to reiterate the primary theme of our "Comments" i.e., the importance of maintaining flexibility in the standards especially for small cable systems.

In our "Comments" we urged the Commission to recognize that the best solution for one community may not necessarily be the

best for another. In many instances the strictly construed federal standards may not be appropriate for a community or may need to be tailored to meet specific local concerns. We are concerned that cities will be pressured to adopt the federal standards without giving any consideration to the potential costs to the subscribers. This is particularly true for smaller cable systems where imposition of standards may have the unintended consequence of imposing additional costs on the subscribers. We suggested that customers may be "satisfied," especially when they understand that the practical alternative may be no service at all.

A. The Commission Should Identify Where Compliance Would Impose a Significant Financial Burden, Especially for Small Systems.

We made two points regarding flexibility in the federal standards. First, we urged the Commission to identify and state where compliance with the standards would impose a significant financial burden and to codify a presumption that small systems, those with 10,000 or less subscribers, cannot meet several specific standards without potential unjustified costs on the consumer. We cited telephone response time and installation and repair time standards as examples. If in fact, the city decides that such standards are needed, alternative approaches are available for it to impose them.

Many of the other commentors, including franchising

authorities, agreed that the standards must be sufficiently flexible to avoid undue hardship on small systems and the customers they serve. For instance, The New York State Commission on Cable Television which has years of practical experience with customer service standards, proposes a general waiver for small systems absent affirmative action by the franchising authority. The Municipal Franchise Authorities, a group of municipalities located in a number of states, would not grant a blanket waiver but would permit small systems to secure waivers.

Some commentators, including NATOA and the Consortium of Small Systems, suggested that any small system exemption or waiver be limited to those systems that are "independent." We contend that this narrow approach misses the point. First, the commentators do not address the critical question of what constitutes an "independent" system except to say that it is not a Multiple System Operator ("MSO"). Does that mean that two or more systems with a small number of subscribers fails to qualify just because they happen to be under common ownership?

More importantly, ownership is not the relevant issue in this instance. The issue is the cost of meeting the standards and whether that cost will impose an unreasonable burden on the system subscribers. Most costs associated with customer service are personnel related i.e., additional customer service

representatives, installers, technicians, and other office employees, and cannot be reduced by "bulk rate" purchases even if the system is owned by a large MSO. The costs have to be paid by the individual system. In fact, in its rate regulation proceeding (MM Docket 92-266), the Commission suggests that some urge this financial approach in order to limit cross-subsidization by one community for service in another. CATA strenuously disagrees with that premise -- the result would be the elimination of service altogether in many small communities, to the detriment of the public. However, the point here is clear, and totally lost in the bureaucratic approach taken by NATOA. Whether there are some cross subsidies or not, whether the system is individually owned or owned by the largest MSO, what is being demanded of the operator must make financial sense on a community by community basis! Thus excessive impositions based on system size are excessive regardless of ownership.

B. The Standards are not Self-Effectuating

Our second point underscored the policy justification, supporting the legal reality that the federal standards are not self-effectuating. They must be adopted by the local franchising authority before they take effect. Many communities are satisfied with their cable service and will see no need to adopt standards. Many other communities have specific concerns that will require modification of the standards. It makes sense then,

that the local authority is able to chose between the federal standards and some, if any, others that better fit the needs and expectations of the community, the cable operator and the subscribers. Automatic imposition of standards and then waiver proceedings is an extraordinarily bureaucratic and inefficient way to achieve the flexibility all but NATOA recognize as necessary.

Standards other than the federal ones can be adopted either through agreement with the operator or by enactment of laws or ordinances of general applicability. This provides the flexibility contemplated by the law and needed to affect sound public policy. In addition, if the standards are held to be self-effectuating, a serious question arises as to whether the local authority is then able legally to waive or modify them without Commission approval. If that is the case, a bureaucratic nightmare has been created as community after community seeks to adjust the standards to meet their particular needs. Another issue, of course, would be the "automatic" granting of authority to communities directly from the federal government -- a problematic legal notion at best.

II. AN EXTREME PROPOSAL SHOULD BE REJECTED

We would be remiss if we did not address the extremism of NATOA's comments. Most commentators in this proceeding made a genuine effort to assist the Commission in satisfying its

Congressional mandate while accommodating the concerns of the community, the cable operator, and the consumers. NATOA however, submitted what amounts to a blatant attempt to impose an overly burdensome, bureaucratic process and to micromanage not only the cable operator's business, but also that of the cities NATOA purports to represent.

NATOA proposes a single set of standards applicable to all cable systems throughout the country, regardless of size or other condition. Under this proposal, a community that decides it wants a modification of the standards or even no standards, must first take specific action to waive or change them. Then, it must notify the Commission so it can review and overrule or sustain the decision. It is totally unreasonable to place such a heavy and unnecessary administrative burden on the Commission, forcing it to review the thousands of requests likely to come before it. It is also, we believe, not in the interests of most communities to place such an administrative burden on the thousands of particularly smaller communities that will want their own, if any, set of standards. We seriously question who NATOA is "representing" in its comments.

Moreover, the standards proposed by NATOA are a wish list of anything and everything that could possibly be asked for. They would require, among other things, that every cable system have a state of the art telephone system, picture identification cards

and name badges for employees, quarterly reports and surveys, and specific mandatory response times, hours of service, and office procedures. The largest of cable systems would be hard pressed to meet all these standards and there is no way a small system could, without imposing massive new fees on the subscribers. Yet it is these smaller communities that under NATOA's proposal, will have to take affirmative action to modify the requirements, and seek Commission approval of the modifications. This is a ludicrous plan that imposes an extreme remedy, forcing everyone to pay the price for the bureaucratic idealism of a few. NATOA's demands are disturbing evidence that local regulators maintain the same extreme, anti-consumer positions they did in the early 1980's which precipitated Federal action then limiting local regulation. We fear a repeat of history unlearned.


A possible litmus test for reasonableness could be the adoption of standards no more onerous than the local regulators themselves can adhere to. What hours is city hall open for business? Does it have a state of the art telephone system? How many rings of the phone does it take for municipal service employees to answer? Do the employees wear name tags and picture ID's? And if the citizens prefer to spend their taxes for other things, do they have to go to a federal agency to seek relief?

CONCLUSION

The Community Antenna Television Association, Inc., urges the Commission to retain flexibility in its standards. It should adopt standards that will serve as a model for communities to use if they believe standards are needed. And if other standards are needed, they can be adopted. Under this approach flexibility is retained to meet local needs without imposing unintended consequences on others.

Respectfully submitted,

THE COMMUNITY ANTENNA TELEVISION
ASSOCIATION, INC.

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